Relationship Between the Land Management Plan and the Revised Environmental Impact Report

Ballona Wetlands Ecological Reserve

Technical Comment on Planning Sequencing, CEQA Enforceability, and the Flood-Conveyance Record (companion to the Ballona Creek Terminus Report)

Executive Summary

The Land Management Plan (LMP) for the Ballona Wetlands Ecological Reserve and the Revised Environmental Impact Report (REIR) for the Ballona Wetlands Restoration Project, which CDFW is preparing pursuant to the court's writ, are distinct documents that serve different legal functions. CDFW uses the designation Revised EIR in its Notice of Preparation; that term is used throughout this comment. It is distinct from CEQA "recirculation" under CEQA Guidelines Section 15088.5, which is the separate procedure for re-releasing a draft EIR for further public review. The LMP is a long-horizon stewardship document for the entire reserve, with a planning horizon of approximately 30 to 40 years. The REIR is the project-level review conducted under the California Environmental Quality Act (CEQA). Neither the CEQA statute nor the CEQA Guidelines require that the two documents be "integrated"; rather, each must be internally consistent, and the reserve's long-term public access, flood-control, and habitat-management provisions should be consistent with, and must not conflict with, the mitigation measures adopted through a certified EIR.

The instrument that makes adopted mitigation measures legally enforceable is the Mitigation Monitoring and Reporting Program (MMRP) required under California Public Resources Code Section 21081.6, not the LMP. Any assertion that the two documents "must be integrated" so that management rules "legally match" the EIR misstates this mechanism. The LMP should reference and support implementation of the MMRP; it does not substitute for it.

Both documents should take account of the deficiencies identified in the litigation that led to decertification of the prior Final Environmental Impact Report (FEIR). In *Protect Ballona Wetlands v. California Department of Fish and Wildlife*, Los Angeles Superior Court No. 21STCP00237, Statement of Decision filed May 17, 2023 (Hon. James C. Chalfant, Dept. 85), the court granted the petition in part and directed the Department to set aside the FEIR and any project approvals and to prepare and certify a legally adequate EIR if it chooses to proceed. The court identified the flood-conveyance design standard and the improper deferral of mitigation as the operative defects. It did not prescribe specific mitigation measures. Characterizations of the outcome as "court-ordered mitigation" are therefore inaccurate.

This comment recommends that the LMP be developed consistently with the Revised EIR (REIR) and the MMRP, so that public-access, flood-control, and habitat-management provisions are aligned with, and do not conflict with, adopted mitigation. It further recommends that the corrected 68,000 cubic-feet-per-second (cfs) design-conveyance standard and the levee alternative that depends on it independently satisfy Section 408, Section 404, the National Environmental Policy Act (NEPA), the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP), and Los Angeles County Flood Control District (LACFCD) requirements, and that a baseline Resource Inventory precede and inform restoration design, thereby allowing restoration alternatives to be evaluated within a documented resource-management framework.

1. Two Distinct Instruments, Not One Integrated Document

The Land Management Plan is a long-term management document governing the reserve, which the Statement of Decision describes as an approximately 600-acre open space (p. 1) and the Project site within it as approximately 566 acres (AR 273). The California Department of Fish and Wildlife (CDFW) describes the Land Management Plan as a long-term planning document developed through an interdisciplinary process addressing infrastructure and public use, cultural resources, and physical and natural resources. CDFW's own materials state differing planning horizons for that document: stakeholder-engagement materials state approximately 30 to 40 years, while CDFW's public Land Management Plan Development webpage states the next 20 to 30 years; this comment does not resolve that discrepancy and recommends CDFW adopt one figure (see Recommendation 4). The Environmental Impact Report, by contrast, is the project-level environmental review document required under CEQA for the proposed Restoration Project.

Although the Land Management Plan is itself a project subject to CEQA, CDFW identifies it as a planning effort with three principal components: (1) preparation of a Resource Inventory, (2) development of the Land Management Plan, and (3) CEQA environmental review. The LMP therefore remains legally and functionally distinct from the project-specific EIR. The LMP establishes long-term management policies and strategies for the reserve; the project EIR evaluates the environmental impacts of a specific restoration proposal. There is no provision in CEQA or the CEQA Guidelines that requires a reserve's Land Management Plan to be "integrated with" a project EIR. What the law requires is internal consistency and a stable, accurate informational record.

---

2. The Enforceability Mechanism Is the MMRP, Not the LMP

To be internally consistent and legally defensible, the Land Management Plan should be developed so that the reserve's long-term public access, flood-control, and habitat-management provisions carry out, and do not conflict with, the mitigation measures adopted through a certified Environmental Impact Report. Under California Public Resources Code Section 21081.6, the enforceability of adopted mitigation measures is provided through the Mitigation Monitoring and Reporting Program. The MMRP, not the Land Management Plan, is the legally operative mechanism for ensuring that mitigation measures are implemented, monitored, and documented. Accordingly, the Land Management Plan should reference and support implementation of the MMRP where appropriate rather than duplicate or replace its statutory function.

This distinction matters for drafting. A statement that the LMP "must be integrated with" the EIR so that management rules "legally match" the analyzed impacts assigns to the LMP a legal function that belongs to the MMRP. The accurate formulation is that the LMP must be consistent with, and must facilitate implementation of, the MMRP-secured mitigation.

---

3. What the Court Actually Held

The operative ruling is *Protect Ballona Wetlands v. California Department of Fish and Wildlife*, Los Angeles Superior Court No. 21STCP00237, Statement of Decision filed May 17, 2023 (Hon. James C. Chalfant). The petition was one of the consolidated "Ballona Cases," which also included *Defend Ballona Wetlands et al. v. CDFW* (No. 21STCP00240), *Ballona Wetlands Land Trust v. CDFW* (No. 21STCP00242), and *Grassroots Coalition et al. v. CDFW* (No. 21STCV03657); the court consolidated the cases for trial on July 15, 2021 and heard

argument on May 9, 2023. Each petition was decided under its own case number. The Protect decision is docketed at No. 21STCP00237, and the record of consolidation appears at page 3 of the filed decision.

The court concluded that the FEIR failed to comply with CEQA in two respects. First, the FEIR omitted the applicable flood-control design parameter. The record shows the Corps advised CDFW that, based on a 1979 feasibility study, the approved Standard Project Flood (SPF) discharge for Ballona Creek is 68,000 cfs, while the FEIR's hydraulic analysis was based on a 46,000 cfs design criterion. The court found: *"Pursuant to the 68,000 cfs standard, the Project's levees must be able to handle water forces approximately 50% more powerful than those analyzed in the FEIR."* Second, the court found the project description conferred excessive discretion to modify habitat-restoration performance criteria without adequate CEQA review, an improper deferral of mitigation. The court's phrase "approximately 50%" tracks the increase in flow rate (68,000 versus 46,000 cfs is roughly a 48 percent increase in discharge). It is not a hydrodynamic force calculation; force on a levee depends on velocity, depth, channel geometry, and energy slope, and does not scale linearly with discharge. The quotation is reproduced as the court wrote it, and this distinction is noted so the figure is not read as an engineering force result.

The court's remedy was to require a legally adequate EIR. It directed a writ to issue setting aside the FEIR and any project approvals and directing CDFW to prepare and certify a legally adequate EIR if it chooses to proceed. The court did not prescribe an engineering design, a levee configuration, or a specific mitigation measure. References to "court-ordered mitigation" are therefore inaccurate: the court identified informational and deferral defects and required their cure.

3.1 Primary-source citation map

The following pin cites are keyed to the footer pagination of the filed Statement of Decision (No. 21STCP00237, May 17, 2023), so that each proposition is traceable to the page a reader will see in that document.

Record location	What it establishes	Use in the record
Caption and date, p. 1	Protect Ballona Wetlands v. CDFW, No. 21STCP00237, filed May 17, 2023; petition granted in part; oral argument heard at the May 9, 2023 trial.	Cite as the operative Statement of Decision.
Consolidation, p. 3	Ballona Cases: Defend 21STCP00240; Land Trust 21STCP00242; Grassroots 21STCV03657; related and consolidated for trial on July 15, 2021.	Establishes that Protect (00237) is a member decision, not a mis-cited number.
Judicial assignment	Hon. James C. Chalfant, Dept. 85, presided over the consolidated Ballona Cases. The Statement of Decision's own text does not state the presiding judge's name; this is confirmed instead by the court's May 17, 2023 minute order and by CDFW's Initial Return and First Interim Return to Peremptory Writ of Mandate, filed in the consolidated Grassroots case, No. 21STCV03657 (Reference 10).	Cite to Reference 10, not to the Statement of Decision, for the judge's name and department.
Historic baseline, p. 8	Record finds no evidence the lagoon remained perennially open; ocean access depended on hydraulic forces; "tidal" is too limiting; predominant influence is freshwater inputs.	Corroborates the seasonal-lagoon, episodic-tidal baseline as record fact.

Record location	What it establishes	Use in the record
Design discharge, pp. 11, 13	Corps advised, based on a 1979 feasibility study, that the approved SPF discharge is 68,000 cfs; FEIR used 46,000 cfs; LACFCD 1959/1963 as-builts show 49,500 cfs (AR 19859; AR 213 n.3); 100-year peak stated as 44,690 cfs.	Anchors the 46,000 vs. 68,000 cfs discrepancy and the intermediate figures.
Flood section opening, p. 29	"The FEIR's failure to include the correct flood control design is the principal issue of this case."	Frames flood conveyance as the central defect.
Baseline-relevance ruling, p. 29	Whether the wetlands were historically tidal is "not relevant" to CEQA; impacts judged against present baseline conditions.	Countervailing holding; cite to avoid overstating the historical argument.
68,000 cfs finding, p. 32	"Pursuant to the 68,000 cfs standard, the Project's levees must be able to handle water forces approximately 50% more powerful than those analyzed in the FEIR."	Verbatim quote; pin to p. 32.
Holding, p. 36	The FEIR fails to (1) state the Corps' intended standard, (2) analyze the flood impacts under it, and (3) analyze the wildlife and habitat impacts of a levee-design change under that standard (prong 3 continues at p. 37).	Three-part statement of the flood-analysis defect.
Conclusion and writ, p. 67	Petition granted in part; writ to set aside the FEIR and any approvals; prepare and certify a legally adequate EIR if CDFW proceeds.	Confirms the remedy is a legally adequate EIR, not court-ordered mitigation.

3.2 Appellate Affirmance

Ballona Ecosystem Education Project (BEEP), a co-petitioner with Grassroots Coalition in the consolidated Ballona Cases (No. 21STCV03657), appealed the judgment entered in that case to the California Court of Appeal, Second District (Case No. B331193). BEEP is named as the sole appellant in the Court of Appeal caption. Oral argument was heard in December 2024. According to the Climate Litigation Database, the Court of Appeal issued a unanimous, unpublished opinion on December 27, 2024, affirming the trial court's judgment in full and rejecting the arguments BEEP raised on appeal. This comment has not independently obtained the slip opinion directly; the holding described below is drawn from the Climate Litigation Database maintained by the Sabin Center for Climate Change Law at Columbia Law School, an independent academic litigation tracker, cross-checked against the case docket.

One argument BEEP raised bears on the historical-baseline and long-term-management questions this comment and the companion Terminus Report address: BEEP argued the EIR should have addressed sea-level rise's effect on raptor foraging habitat. The Court of Appeal rejected this argument, citing Ballona Wetlands Land Trust v. City of Los Angeles (2011) 201 Cal.App.4th 455 for the rule that CEQA does not require an EIR to address "the significant effects of the environment on the project." The court held the EIR "was not deficient for failing to address or mitigate the effect of sea level rise on raptor foraging habitats." This is the same precedent the trial court applied in its own White-Tailed Kite discussion; the Court of Appeal's reliance on it here does not expand or narrow the two defects identified in Section 3 above, which the Court of Appeal did not disturb.

The practical effect for this comment is limited. The Court of Appeal affirmed the trial court's judgment in full and rejected the arguments BEEP raised; BEEP's appeal did not challenge the flood-conveyance and deferred-mitigation defects identified in Section 3, so those holdings, and the remedy directing preparation of a legally adequate EIR rather than prescribing a specific mitigation measure, were not disturbed on appeal. That is a narrower statement than characterizing those specific holdings as themselves affirmatively reviewed and upheld; it means only that they were not challenged and were not overturned. Nothing in the Court of Appeal's decision, as reported by the sources cited above, alters the flood-conveyance record discussed in Section 4 or the sequencing and baseline discussion in Sections 5 and 6.

4. The Corrected Flood-Conveyance Standard and Independent Regulatory Obligations

The administrative record carries several discharge figures, and precision among them matters. The table below lists the figures the court actually weighed, each tied to its own source and reach. The court's ruling turns on the gap between the analyzed 46,000 cfs and the authorized 68,000 cfs Standard Project Flood, a 47.8 percent increase in design flow.

Discharge	Meaning and source	Reach / role
44,690 cfs	100-year peak flow, computed (administrative record, AR 1112; filed decision p. 13).	Hydrologic peak; not a design standard.
46,000 cfs	FEIR design criterion, from a preliminary Corps direction and the Operations and Maintenance Manual (filed decision pp. 11, 13).	The value the FEIR actually analyzed.
49,500 cfs	1959 and 1963 LACFCD as-built design drawings for the levee modifications (filed decision pp. 11, 13, citing AR 19859; AR 213 n.3).	As-built design discharge of record.
68,000 cfs	Authorized Standard Project Flood, approved on the basis of the 1979 USACE feasibility study (filed decision pp. 11, 30, 32).	The authorized design standard the court applied.

Note. *A fifth figure, approximately 72,000 cfs, appears in the 1979 USACE feasibility report as the physical channel conveyance capacity upstream of the Lincoln Boulevard Bridge. It is a distinct engineering quantity for a specific reach, not a design flood standard, and the court did not weigh it; it is noted here only so that this comment reconciles with the companion Ballona Creek Terminus Report (Section 7.2), which cites it. The record contains no 82,000 cfs figure, and none should be introduced.*

The corrected design conveyance, and the levee alternative that depends on it, must independently satisfy the applicable requirements of Section 408 of the Rivers and Harbors Act (33 U.S.C. Section 408) and Section 404 of the Clean Water Act (33 U.S.C. Section 1344), and the National Environmental Policy Act (42 U.S.C. Sections 4321 et seq.) where federal action is involved. They must also comply with the Federal Emergency Management Agency National Flood Insurance Program requirements and the engineering and operational requirements of the Los Angeles County Flood Control District. Compliance with CEQA neither replaces nor supersedes these independent obligations. Alternative 1's levee design should be evaluated against the 68,000 cfs standard rather than the superseded 46,000 cfs criterion, and the Land Management Plan's flood-control provisions should be consistent with the alternative as ultimately corrected.

---

5. Sequencing: Resource Inventory and Baseline Before Restoration Design

CDFW's own planning framework provides that development of the Land Management Plan begins with a comprehensive Resource Inventory, followed by preparation of the Land Management Plan and then CEQA review. The Resource Inventory is intended to identify the property's existing physical, biological, cultural,

infrastructure, and public-use resources, to identify information gaps, and to inform long-term management decisions.

Because the Resource Inventory documents existing conditions and identifies information gaps that inform long-term management, completion of that foundational work provides the proper basis for evaluating restoration alternatives. No Land Management Plan has previously been prepared for the reserve. A Land Management Plan that documents the baseline condition of the reserve should inform the restoration design, thereby allowing restoration alternatives to be evaluated within a documented resource-management framework. This sequencing argument is logically distinct from the consistency argument in Sections 1 and 2 and should be stated separately; it is a planning-order recommendation, not a claim that CEQA compels a particular integration.

---

6. Historical Baseline Consistency and the Companion Terminus Report

Although historical conditions are not the CEQA baseline, the historical record remains relevant to long-term ecological management, because the Land Management Plan is intended to establish management objectives for the reserve over a horizon of several decades. The sequencing recommendation in Section 5 is reinforced by the record's own treatment of those conditions. In its Statement of Facts (p. 8), the same decision that anchors this comment recites, as record fact, that no evidence shows the Ballona Lagoon remained perennially open, that access to the ocean depended on hydraulic forces in any given year, and that the predominant influence was freshwater inputs from the watershed, such that the term tidal is too limiting for the reserve. The record does not describe a purely freshwater system; it recites that brackish, freshwater, and salt marsh predominated over perennially open tidal wetlands, and that roughly half the lagoon consisted of freshwater and tidally affected saltmarsh and brackish habitats transitioning to a more alkaline and freshwater system farther inland. The distinction the record draws is one of predominance and permanence: tidal influence was intermittent rather than persistent, and freshwater inputs were the dominant driver. Those findings describe a seasonal, intermittently closed lagoon rather than a persistently open tidal estuary.

This matters for the Land Management Plan in a bounded way. The court also held, at p. 29, that whether the wetlands were historically tidal is not relevant to the CEQA impact analysis, because impacts are judged against present baseline conditions. This comment does not rely on the historical baseline to argue a CEQA defect. It makes the narrower point that a Resource Inventory and Land Management Plan built on the reserve's documented baseline will rest on conditions the record already describes, and will not have to be reconciled after the fact to a characterization the record does not support.

The documented baseline is developed at length, from the earliest jurisdictionally operative primary sources, in the companion Ballona Creek Terminus Report (v5.72, CC BY 4.0), a primary-source reconstruction prepared as a companion to this comment, which reconstructs the terminus as a watershed-fed terminal lagoon from the Hancock federal survey (1857 to 1858) and the Courtney court-certified partition map (1867 to 1868). That report and this comment are consistent on the flood-conveyance record; the 72,000 cfs upstream channel-capacity figure noted in Section 4 is the one figure the Terminus Report carries that this comment does not weigh, and the note there reconciles the two. Reviewers seeking the full historical and hydrologic basis, including the spring-fed hydrology and the survey chain of authority, are referred to that report.

---

7. Recommendations

- Develop the Land Management Plan consistently with the Revised EIR (REIR) and the MMRP, so that public-access, flood-control, and habitat-management provisions are consistent with, and do not conflict with, adopted mitigation. Reference the MMRP as the enforceability mechanism under Public Resources Code Section 21081.6; do not treat the LMP as that mechanism.
- Evaluate the design of Alternative 1 (the levee alternative) against the authorized 68,000 cfs Standard Project Flood, and ensure the corrected design independently satisfies Section 408, Section 404, NEPA, the FEMA NFIP, and LACFCD requirements.
- Complete and publish the Resource Inventory as the documented baseline before finalizing restoration design and before adoption of the Land Management Plan, so that management and restoration proceed from a common, verified baseline; publication in advance of those decisions would also improve transparency and facilitate informed public review.
- Adopt and state a single, consistent Land Management Plan planning horizon. CDFW's own materials currently give two different figures for the same document: 20 to 30 years on the public Land Management Plan Development webpage, and 30 to 40 years in the stakeholder-engagement materials. The Land Management Plan itself should resolve, not repeat, that inconsistency.
- Ground the Resource Inventory and Land Management Plan baseline in the reserve's documented conditions, consistent with the record findings at p. 8 and with the companion Ballona Creek Terminus Report, so that management rests on conditions the record already describes.
- Maintain separate treatment of the consistency issue and the sequencing issue in any future analysis, since they rest on different legal and planning premises.
- Confirm the Revised EIR (REIR)'s status against the State Clearinghouse record (SCH No. 2012071090) before citing any publication date; as of this drafting no confirmed publication date is on the record.

References

1. Protect Ballona Wetlands v. California Department of Fish and Wildlife, Los Angeles Superior Court No. 21STCP00237, Statement of Decision, May 17, 2023 (Hon. James C. Chalfant, Dept. 85). Consolidated Ballona Cases: Nos. 21STCP00240 (Defend Ballona Wetlands et al.), 21STCP00242 (Ballona Wetlands Land Trust), and 21STCV03657 (Grassroots Coalition et al.). Pinpoint citations herein are to the footer pagination of the filed decision (flood holding at p. 32; three-part holding at pp. 36 to 37; writ at p. 67; baseline findings at p. 8).

2. California Public Resources Code Section 21081.6 (Mitigation Monitoring and Reporting Program).

3. California Environmental Quality Act, California Public Resources Code Sections 21000 et seq.; CEQA Guidelines, Cal. Code Regs., tit. 14, Div. 6, Ch. 3 (Section 15000 et seq.); recirculation of a draft EIR governed by Section 15088.5.

4. 33 U.S.C. Section 408 (alteration of U.S. Army Corps of Engineers civil works projects); 33 U.S.C. Section 1344 (Clean Water Act Section 404); 42 U.S.C. Sections 4321 et seq. (NEPA); 44 C.F.R. Parts 59 to 78 (National Flood Insurance Program).

5. U.S. Army Corps of Engineers, 1979 feasibility study establishing the Standard Project Flood discharge for Ballona Creek, as referenced in the Statement of Decision (pp. 11, 13, 32, citing AR 19793, AR 19596). This comment has not independently obtained or verified the report's formal title, issuing district office, or exact publication month. The approximately 72,000 cfs upstream channel-conveyance figure near the Lincoln Boulevard Bridge is drawn from the

companion Ballona Creek Terminus Report (Section 7.2), which cites the report directly; reviewers seeking the full bibliographic citation should consult that report rather than this one.

6. Ballona Creek Terminus Report, v5.72 (report dated February 28, 2026; Internet Archive publication March 1, 2026), CC BY 4.0. Companion primary-source reconstruction of the terminus baseline from the Hancock federal survey (1857 to 1858) and the Courtney court-certified partition map (1867 to 1868), with the spring-fed hydrology and the flood-conveyance record.

7. California Department of Fish and Wildlife, Ballona Wetlands Ecological Reserve Land Management Plan, stakeholder-engagement materials (30-to-40-year planning horizon; three-component planning framework); compare CDFW's Land Management Plan Development webpage, which states a 20-to-30-year planning horizon for the same document. See Section 1 note regarding this discrepancy.

8. CEQAnet, State Clearinghouse No. 2012071090 (Ballona Wetlands Restoration Project record).

9. Ballona Ecosystem Education Project v. California Department of Fish and Wildlife, Cal. Ct. App., 2nd Dist., No. B331193, unpublished opn. (Dec. 27, 2024), affirming the judgment in Grassroots Coalition, et al. v. CDFW, Los Angeles Superior Court No. 21STCV03657, one of the consolidated Ballona Cases decided in the May 17, 2023 Statement of Decision, No. 21STCP00237. See Sabin Center for Climate Change Law, Climate Litigation Database, case entry for B331193 (independent academic litigation tracker; slip opinion not independently obtained for this comment).

10. Grassroots Coalition, et al. v. California Department of Fish and Wildlife, Los Angeles Superior Court No. 21STCV03657: Minute Order, May 17, 2023 (Hon. James C. Chalfant, Dept. 85, presiding); Initial Return to Peremptory Writ of Mandate, filed October 19, 2023; First Interim Return to Peremptory Writ of Mandate, filed April 19, 2024. Cited solely to confirm the presiding judge's name and department, which the Statement of Decision's own text does not state.

Verified source URLs

Statement of Decision, public copy of the consolidated ruling: https://drive.google.com/file/d/12qiMPyofWzkMOzT0d6rIYRF2egLjikeq/view

Ballona Creek Terminus Report, Internet Archive page: https://archive.org/details/ballona-creek-terminus-report-ia

Ballona Creek Terminus Report, PDF: https://archive.org/download/ballona-creek-terminus-report-ia/Ballona-Creek-Terminus-Report-IA.pdf

Ballona Creek Terminus Report, full text: https://archive.org/stream/ballona-creek-terminus-report-ia/Ballona-Creek-Terminus-Report-IA_djvu.txt

CDFW Ballona Wetlands Land Management Plan stakeholder materials: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=245302

CDFW Ballona Wetlands Land Management Plan planning team: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=245475

CDFW Ballona Wetlands Restoration Project EIR page: https://wildlife.ca.gov/Regions/5/Ballona-EIR

CDFW Ballona Wetlands Land Management Plan Development webpage (states 20-to-30-year planning horizon): https://wildlife.ca.gov/Lands/Places-to-Visit/Ballona-Wetlands-ER#lmpd

---

Version Block and Changelog

Document version: v1.4.0

Status: For transmittal to the South Coast Region Manager and the Reserve Land Manager, and for submission to the Land Management Plan public survey.

v1.4.0 Perplexity forensic-editorial pass adjudicated; genuine precision and readability fixes adopted, redundant or substantively risky suggestions declined. Section 3.2: "appealed the Statement of Decision" corrected to "appealed the judgment entered in that case," since an appeal runs from the judgment (which the Statement of Decision itself directed counsel to prepare and enter separately, with an OSC re: Judgment set for June 29, 2023), not from the

Statement of Decision itself; this also brings the sentence into line with "the trial court's judgment" as already used later in the same section. Executive Summary: "distinct instruments with distinct legal functions" changed to "distinct documents that serve different legal functions" in its one substantive-text occurrence; the parallel phrase in the Section 1 heading ("Two Distinct Instruments") is a section title, not the sentence flagged, and was left as the established term of art. Split the long Executive Summary recommendation sentence and the Section 4 regulatory-obligations sentence into two sentences each, for readability, with no change in substance. Recommendation 2 (Alternative 1's levee design) now identifies Alternative 1 as "the levee alternative" on first mention in that recommendation, for a reader who has not read Section 3 first. Declined as already satisfied in this file: shortening the Section 3 force-versus-flow paragraph (the suggested revision was substantively identical to the existing text); adding a Reference 10 cross-reference to the Section 3.1 citation-map table's judicial-assignment row (already present); and making Recommendations begin with clear imperative verbs (all seven already do). Declined on the merits: adding an illustrative planning-horizon figure such as "(for example, 30-40 years)" to Recommendation 4, since this document deliberately takes no position on which of CDFW's two conflicting figures should be adopted, and suggesting one would compromise that neutrality. Declined for scope: numerous suggestions to add further explanatory sentences for lay readers throughout Sections 1, 5, and 6, and to shorten the Section 3.1 table's "Use in the record" entries, since the audience for this specific transmittal includes technical reviewers for whom the existing detail is the point, and adding further explanatory padding would reintroduce the density problem already addressed in v1.3.9. No pin cite, AR citation, quotation, or figure was changed.

v1.3.9 ChatGPT forensic-editorial pass adjudicated; readability and terminology fixes adopted, cosmetic-only suggestions declined. Corrected a self-reference inconsistency in Section 3.2: "this report" changed to "this comment," matching the term used everywhere else in the document. Reordered Recommendations so the planning-horizon item (formerly Recommendation 7) now follows the Resource Inventory recommendation as Recommendation 4, since it concerns LMP content and sequencing rather than REIR status; the SCH/publication-date item is now Recommendation 7. Updated the Section 1 cross-reference accordingly. Reworded the consistency/sequencing recommendation (now Recommendation 5) from a description of what this comment does to an instruction directed at future analysis, for parallelism with the other recommendations. Two word substitutions for register: "adjacent to" to "bears on" and "bounded" to "limited," both in Section 3.2. Declined: a suggestion to add paragraph breaks to the Executive Summary, which already has them in this file (the reviewing tool had evidently seen a flattened copy without paragraph breaks); a suggested rewording of the Section 6 closing sentence, which would have restated information already given earlier in the same sentence; and a suggested title change to add "Ballona Wetlands," which is redundant with the subtitle line immediately beneath the title. No pin cite, AR citation, quotation, or figure was changed.

v1.3.8 Corrections following primary-source confirmation of the presiding judge's name via the court's May 17, 2023 minute order and CDFW's Initial Return and First Interim Return to Peremptory Writ of Mandate in the consolidated Grassroots case (No. 21STCV03657). Added new Reference 10 and a citation-map row so that Hon. James C. Chalfant, Dept. 85 is no longer implicitly attributed to the Statement of Decision's own text, which does not state the judge's name. Corrected the Section 3.1 citation-map table: moved the "argued May 9, 2023" fact from the p. 3 (consolidation) row, where it does not appear, to the p. 1 (caption and date) row, where it does. Softened Reference 5 to remove an unverified specific report title, issuing office, and month for the 1979 USACE feasibility study; the report is now cited only as referenced in the Statement of Decision, with the fuller bibliographic citation deferred to the companion Terminus Report. Corrected the reserve-acreage statement in Section 1 to the figures stated in the Statement of Decision itself (approximately 600 acres, p. 1; Project site approximately 566 acres, AR 273), replacing an uncited 577-acre figure. Removed an uncited 2005 designation date in Section 5. Flagged, rather than resolved, a discrepancy between CDFW's stakeholder-engagement materials (30-to-40-year LMP planning horizon) and CDFW's public Land Management Plan Development webpage (20-to-30-year horizon), in Section 1, Reference 7, the Verified source URLs, and a new Recommendation 7. No pin cite, AR citation, or quotation in the flood-conveyance and deferred-mitigation holdings (Sections 3 and 4) was changed.

v1.3.7 Triple-AI peer-review correction of two v1.3.6 items. First, Section 3.2's oral-argument date is softened from "December 12, 2024" to "in December 2024." The specific day is not stated in the appellate opinion or in the Sabin Center Climate Litigation Database entry, and the only source located for the exact day did not meet this project's

sourcing standard for independent, non-conflicted verification; it is accordingly not relied upon. December 2024 as the month is corroborated by the Climate Litigation Database and by independent, non-conflicted local reporting. Second, the v1.3.6 changelog's sourcing description for the BEEP co-petitioner correction is rewritten to state the actual verification chain: the trial Statement of Decision's own description of the petitioners, CDFW's Notice of Preparation listing all four consolidated case numbers, and non-conflicted local news coverage, rather than the less precise "contemporaneous local reporting" framing, which risked being read as including the conflicted source addressed above. Third, a leftover instance of "operationalize" in the Executive Summary is aligned with the "reference and support implementation of" phrasing used consistently in Section 2 since v1.3.4. No pin cite, AR citation, quotation, or figure in Sections 1 through 6 was changed; the two defects identified in Section 3 and the flood-conveyance record in Section 4 remain unaffected.

v1.3.6 Triple-AI peer-review correction of the v1.3.5 Section 3.2 text. Independent verification (the trial Statement of Decision's own description of the petitioners, CDFW's Notice of Preparation listing all four consolidated case numbers, and non-conflicted local news coverage) established that BEEP was a co-petitioner with Grassroots Coalition under Los Angeles Superior Court No. 21STCV03657, one of the four consolidated Ballona Cases, and not a separately captioned Ballona Cases petitioner in its own right; BEEP is named as the sole appellant in the Court of Appeal caption for No. B331193. The v1.3.5 Section 3.2 opening sentence, Reference 9, and the v1.3.5 changelog entry each described the appeal as running from the Statement of Decision and the Protect case number (No. 21STCP00237) without this intermediate case-number lineage; that description is imprecise and is corrected here. Section 3.2's closing paragraph is also narrowed: BEEP's appeal did not challenge the flood-conveyance and deferred-mitigation holdings in Section 3, so those holdings were not disturbed on appeal, which is a narrower statement than describing them as themselves appellate-affirmed. The sentence attributing the specific appellate holding to the Climate Litigation Database is now stated inline rather than only in the paragraph's closing disclosure. No pin cite, AR citation, quotation, or figure in Sections 1 through 6 was changed; the two defects identified in Section 3 and the flood-conveyance record in Section 4 remain unaffected. The v1.3.5 entry below is retained unedited as the historical record of that revision.

v1.3.5 Added a new Section 3.2 (Appellate Affirmance) and Reference 9, documenting that Ballona Ecosystem Education Project (BEEP) appealed the Statement of Decision to the California Court of Appeal, Second District (Case No. B331193), which unanimously affirmed the trial court in an unpublished opinion dated December 27, 2024, rejecting all of BEEP's arguments. Noted the court's specific rejection of a sea-level-rise/raptor-foraging-habitat argument, citing the same Ballona Wetlands Land Trust v. City of Los Angeles (2011) precedent applied by the trial court, since that holding bears on the historical-baseline and long-term-management discussion in Sections 5 and 6. This finding was located through independent verification (Sabin Center for Climate Change Law's Climate Litigation Database), not through advocacy or secondary sourcing; secondary reporting on the decision was consulted only for procedural facts that matched the independent record. No pin cite, AR citation, quotation, or figure in Sections 1 through 6 was changed; the two defects identified in Section 3 and the flood-conveyance record in Section 4 are unaffected.

v1.3.4 Editorial and technical-precision pass from the v1.3.3 ChatGPT review (scored 98 to 99, no correctness findings beyond one physics overclaim). Corrected the force-versus-flow note: the prior formulation ("force scales with velocity squared … the physical force increase would be greater still, so the court's figure is conservative") assumed fixed channel geometry and overstated what can be claimed; replaced with the strictly correct statement that hydraulic force depends on velocity, depth, channel geometry, and energy slope, and does not scale linearly with discharge, so the court's figure is identified as a discharge figure rather than a force result without asserting a direction of change. Softened the Executive Summary's "Both documents must reflect" to "should take account of," since the Land Management Plan is not itself remanded by the court. Changed Section 2's "operationalize" to "facilitate implementation of" for register and to avoid management jargon. Trimmed the closing rhetorical clause in Section 3 ("which is the opposite of prescribing mitigation") so the point reads as analysis rather than argument. No pin cite, AR citation, quotation, or date changed.

v1.3.3 Post-review cleanup addressing the two low-severity items from the v1.3.2 Perplexity re-review, which returned no factual, citational, or substantive findings. Corrected a grammatical error introduced in the v1.3.2 Executive Summary edit ("the document it is preparing in response a Revised EIR"), rewritten as "CDFW uses the designation Revised EIR in its Notice of Preparation" to remove both the missing word and the redundancy with the preceding sentence. Reference 6 now carries both Terminus Report dates with explicit labels, report dated February 28, 2026 and Internet Archive

publication March 1, 2026, resolving the dated-versus-published question by citing each with its correct meaning rather than choosing between them; this supersedes the v1.3.2 decision to cite the publication date alone. No pin cite, AR citation, or quotation changed. Perplexity confirmed all six reader-focused concerns as passed: Griswold terminology precision, Lamb attribution symmetry, REIR consistency, force-versus-flow framing, the 82,000 cfs disclaimer, and the Terminus circular-sourcing label.

v1.3.2 Audience-calibration pass for the first technical readers (Ballona Wetlands Land Trust; Land IQ), consolidating the ChatGPT and Perplexity reviews against the filed decision. Removed “court-ordered” as a modifier of the Revised EIR in the Executive Summary (two instances), harmonizing with the Section 3 correction that the court ordered a legally adequate EIR rather than prescribing a document or mitigation; the REIR is now described as prepared by CDFW pursuant to the court’s writ. Softened the Executive Summary’s “must implement” to “should be consistent with, and must not conflict with,” aligned Section 2 to “operationalize,” and aligned Recommendation 1 to “consistent with,” so the LMP’s role is not overstated relative to the MMRP. Reworked Section 6: added an opening sentence bridging the sequencing recommendation to long-term management, added the record’s mixed-system nuance (brackish, freshwater, and salt marsh predominated; roughly half the lagoon freshwater and tidally affected), and reframed the characterization as one of predominance and permanence rather than a tidal or non-tidal binary. Neutralized the “design selected before that baseline was established” phrasing in the Executive Summary and Section 5, which had attributed a sequencing decision to CDFW. Expanded the Resource Inventory recommendation to cover sequencing before both restoration design and Land Management Plan adoption, with a transparency and public-review rationale. Tightened the force-versus-flow note so the physics reinforces rather than appears to correct the court’s figure. Labeled the Terminus Report, at first substantive mention, as a primary-source reconstruction prepared as a companion to this comment, to preclude a circular-sourcing reading. Reference 6 retains “published March 1, 2026” per author direction; the Perplexity-suggested February 28, 2026 title-block date was not adopted. No pin cite, AR citation, or quotation changed.

v1.3.1 Triple-AI peer-review reconciliation. Perplexity review (eight margin comments and one tracked change) adjudicated against the filed Statement of Decision (No. 21STCP00237, May 17, 2023). The reviewer lacked access to the filed Protect-captioned decision and flagged seven items as unverifiable against public sources; all seven were re-verified against the filed decision and confirmed as written: the 68,000 cfs quotation verbatim at p. 32; the July 15, 2021 consolidation at p. 3 and the May 9, 2023 argument at p. 1; the 49,500 cfs as-built figure at pp. 11 and 13, with AR 19859 and AR 213 n.3; the 44,690 cfs computed 100-year peak with AR 1112 at p. 13; the Statement of Facts baseline findings at p. 8; and the two distinct holdings the citation map pins to p. 29 (flood-section opening and baseline-relevance ruling), both confirmed present on p. 29. The public design-discharge figures the reviewer cited for comparison (44,270 and 55,036 cfs) do not appear in the filed decision; reconfirmed that no 82,000 cfs figure appears. Reference 6 retains “published March 1, 2026” as the Terminus Report publication date; the reviewer’s suggested change to the February 28, 2026 title-block date was declined to preserve the publication date. No substantive text changes; body carried forward from v1.3.0 unchanged.

v1.3.0 Companion-consistency update; Terminus Report left untouched. Section 4 now leads with a reconciliation table of the discharge figures the court weighed (44,690 / 46,000 / 49,500 / 68,000), each tied to source and reach, with the 47.8 percent analyzed-to-authorized gap stated. Added a note carrying the approximately 72,000 cfs upstream channel-capacity figure from the 1979 USACE report as a distinct quantity the court did not weigh, so this comment reconciles with the Terminus Report Section 7.2 rather than contradicting it; confirmed the record contains no 82,000 cfs figure. Added Section 6 (Historical Baseline Consistency and the Companion Terminus Report), bridging the p. 8 baseline findings and the p. 29 not-relevant holding to the Terminus Report without asserting a CEQA defect on historical grounds. Recommendations renumbered to Section 7 with a baseline-grounding bullet added. References expanded to add the 1979 USACE feasibility report and the Terminus Report; URLs expanded to add the public copy of the ruling and the Terminus Report Internet Archive page, PDF, and full text. Terminus Report URLs drawn from the established published record; confirm live before distribution.

v1.2.1 Final proofread. Restored the dropped phrase in the third holding prong of the citation map ("wildlife and habitat impacts of a levee-design change," continuing at p. 37). Changed "three distinct discharge figures" to "three distinct design-discharge figures" so the 44,690 cfs computed 100-year peak is not miscounted as a fourth design standard. Tightened the CEQA Guidelines citation to standard form (Cal. Code Regs., tit. 14, Div. 6, Ch. 3, Section 15000 et seq.). All

pin cites (pp. 8, 11, 13, 29, 32, 36, 67) re-verified against the filed decision; the 68,000 cfs quotation confirmed verbatim at p. 32 and the writ language confirmed at p. 67.

v1.2.0 Third-review reconciliation. Adopted lead-agency terminology: title and body now use "Revised EIR (REIR)" and distinguish it from CEQA recirculation under Guidelines Section 15088.5. Added Grassroots case number (21STCV03657) in the body, citation table, and references. Added a force-versus-flow clarification to the 68,000 cfs finding (the court's "approximately 50%" tracks the ~48 percent flow increase, not a velocity-squared force result). Reframed the 82,000 cfs exclusion as drafting guidance rather than a dangling rebuttal. Added the 44,690 cfs 100-year peak and confirmed the 49,500 cfs LACFCD figure at pp. 11 and 13. Third-review flags that the 68,000 cfs quote and the Protect pin cites were unverifiable were resolved against the uploaded filed decision, where the quote appears verbatim at p. 32 and the 49,500 cfs figure appears at pp. 11 and 13.

v1.1.0 Reconciled against the primary source (Statement of Decision, No. 21STCP00237, May 17, 2023). Corrected all pinpoint citations to the filed pagination: 68,000 cfs finding at p. 32; flood-analysis holding at p. 36; conclusion and writ at p. 67; design-discharge record at p. 11; baseline-relevance ruling at p. 29. Confirmed case number 21STCP00237 as the Protect decision. Added the 46,000 / 49,500 / 68,000 cfs record distinction. Added the countervailing baseline-relevance holding to prevent overstatement.

v1.0.0 Initial reconciled draft merging the LMP/EIR distinction, the MMRP enforceability mechanism, and the correction of the "court-ordered mitigation" characterization; sequencing argument separated from the consistency argument.